

UNITED STATES OF AMERICA
Before the
OFFICE OF THRIFT SUPERVISION

In the Matter of)

INA TRUST, fsb)

Wilmington, Delaware (OTS No. 15646))
_____)

Re: Order No. NE-06-06

Dated: May 30, 2006

STIPULATION AND CONSENT TO ISSUANCE OF AN ORDER TO CEASE AND DESIST

This Stipulation and Consent to Issuance of an Order to Cease and Desist ("Stipulation") is submitted by **INA Trust, fsb**, Wilmington, Delaware (the "Savings Association", OTS No. 15646), to the Office of Thrift Supervision ("OTS"), which is acting through its Northeast Regional Director ("Regional Director"). This Stipulation concerns the accompanying Order to Cease and Desist (the "Order").

WHEREAS, the OTS, based upon information derived from the exercise of its regulatory responsibilities, has informed the Savings Association that the OTS is of the opinion that grounds exist to initiate administrative cease-and-desist proceedings against the Savings Association pursuant to 12 U.S.C. § 1818(b),¹ and

WHEREAS, the Savings Association desires to cooperate with the OTS and to avoid the time and expense of such administrative proceedings; and

WHEREAS, the Savings Association, while admitting that the OTS has jurisdiction with respect to this matter (as addressed in Section 1 below), neither admits nor denies (i) that the above-mentioned grounds exist, or (ii) the OTS Findings of Fact (in Section 2 below), and, is of the understanding that this settlement is subject to Rule 408 of the Federal Rules of Evidence; and

WHEREAS, on or before the date of its execution hereof, the Savings Association has filed with the OTS an application for voluntary dissolution, pursuant to 12 C.F.R. § 546.4;

NOW, THEREFORE, the Savings Association hereby stipulates and agrees to the following terms:

¹ All references in this Stipulation and in the Order are to the United States Code as amended.

1. Jurisdiction.

(a) INA Trust, fsb, is a "savings association" within the meaning of 12 U.S.C. § 1813(b), and 12 U.S.C. § 1462(4). Accordingly, INA Trust, fsb, is an "insured depository institution" as that term is defined in 12 U.S.C. § 1813(c).

(b) Pursuant to 12 U.S.C. § 1813(q), the OTS is the "appropriate Federal banking agency" with jurisdiction to maintain administrative enforcement proceedings against savings associations. Therefore, the Savings Association is subject to the authority of the OTS to initiate and maintain administrative cease-and-desist proceedings against it pursuant to 12 U.S.C. § 1818(b).

2. OTS Findings of Fact.

The OTS finds that the Savings Association had weaknesses in the policies and implementation of its anti-money laundering program in violation of 12 C.F.R. § 563.177 and 31 C.F.R. §§ 103.120 - 103.121. The Savings Association failed to maintain a sufficient number of members on its Board contrary to 12 C.F.R. § 552.6-1(b), and it violated 12 C.F.R. § 562.1(b)(2) (requiring properly prepared thrift financial reports). Finally, weaknesses in some aspects of the Savings Association's trust operations were contrary to 12 C.F.R. §§ 550.140(a) (brokerage placement practices), 550.210 (initial investment review requirements), and 550.260(b) (incorporating requirements of 12 C.F.R. § 9.18 regarding collective investment funds).

3. Consent.

(a) The Savings Association hereby consents to the issuance by the OTS of the Order.

(b) The Savings Association agrees to comply with the terms of the Order upon its issuance. The Savings Association further stipulates and agrees that the Order complies with all requirements of law, as applicable.

4. Finality.

The Order is issued by the OTS under the authority of 12 U.S.C. § 1818(b). Upon the issuance of the Order by the OTS, acting by and through the undersigned Regional Director (which term also shall refer to the Regional Director's authorized designees), the Order shall be a final order, effective and fully enforceable by the OTS under the provisions of 12 U.S.C. § 1818(i).

5. Waivers.

The Savings Association hereby waives the following:

- (i) The right to be served with a written notice of the OTS's charges;
- (ii) The right to an administrative hearing of the OTS's charges concerning the basis for issuance of the Order;

- (iii) The right to seek judicial review of the Order, including, without limitation, any such right provided by 12 U.S.C. § 1818(h), or otherwise to challenge the validity of the Order; and
- (iv) Any and all claims against OTS, including its employees and agents, and any other governmental entity for the award of fees, costs, or expenses related to this OTS enforcement matter and/or the Order, whether arising under federal statutes (*e.g.*, the Equal Access to Justice Act, 5 U.S.C. § 504, or 28 U.S.C. § 2412), under common law, or otherwise.

6. Other Government Actions Not Affected; Scope of OTS Release.

(a) Upon the OTS's issuance of the accompanying Order, following the OTS's acceptance of this Stipulation executed by the Savings Association, the OTS does release and discharge the Savings Association from all administrative enforcement claims and charges that have been or might have been asserted by the OTS, based on the OTS's examination findings about the Savings Association that are set out in the Report of Examination for the examination of the Savings Association started on January 3, 2006 (the "Report of Examination"). Notwithstanding such release, however, the violations and practices referenced in the Report of Examination and/or alleged in the "OTS Findings of Fact" (Section 2 hereof) may be utilized by the OTS in any future enforcement actions to establish a pattern or practice of violations or the continuation of a pattern or practice of violations and/or unsafe or unsound practices. This release shall not preclude or affect any right of the OTS to determine and ensure compliance with the terms and provisions of the Order and this Stipulation.

(b) The Savings Association acknowledges and agrees that its consent to the issuance of the Order does not release, discharge, compromise, settle, dismiss, resolve, or in any way affect any actions, charges against, or liability of the Savings Association that arise pursuant to this action or otherwise, and that may be or have been brought by any other government entity other than the OTS.

7. Relation to Other Regulatory Actions.

The terms, requirements, and restrictions of the Order supersede the terms, requirements, and restrictions (if any) set out in the Supervisory Directive dated February 3, 2006 that the OTS issued to the Savings Association. The Savings Association remains obligated to take all corrective actions specified in the Report of Examination. However, to the extent there are any conflicts between deadlines specified in the Report of Examination and deadlines specified in the Order, the deadlines in the Order shall prevail and be applicable.

8. Miscellaneous.

(a) The laws of the United States of America shall govern the construction and validity of this Stipulation and of the Order.

(b) The Board of Directors of the Savings Association has duly authorized the Savings Association to execute this Stipulation and to consent the OTS's issuance of the Order. The Savings Association is submitting herewith a certified copy of said duly adopted board resolutions.

(c) All references to the OTS in this Stipulation and in the Order shall also mean any of the OTS's predecessors, successors, and assigns.

(d) The section and paragraph headings in this Stipulation and in the Order are for convenience only, and such headings shall not affect the interpretation of this Stipulation or the Order.

(e) The terms of this Stipulation and of the Order represent the final written agreement of the parties with respect to the subject matters thereof, and constitute the sole agreement of the parties with respect to such subject matters.

(f) This Stipulation, which is incorporated into the Order, shall remain in effect until the Order is terminated in accordance with Section 21 of the Order. The terms of this Stipulation may not be modified, except by a written document signed by the Savings Association and by the OTS, acting through its Director, Regional Director, or other authorized representative.

WHEREFORE, the Savings Association executes this Stipulation, intending to be legally bound hereby.

INA TRUST, fsb

s/Ken Koreyva
By: _____
Name: Ken Koreyva
Title: Chairman of the Board
Date: May 24, , 2006

Accepted by:
OFFICE OF THRIFT SUPERVISION

s/Robert C. Albanese
By: _____
Robert C. Albanese
Regional Director
Date: See the date in the caption hereof

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UNITED STATES OF AMERICA
Before the
OFFICE OF THRIFT SUPERVISION

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|--------------------------------------|---|--------------------|
| In the Matter of |) | |
| |) | |
| |) | Order No. NE-06-06 |
| INA TRUST, fsb |) | |
| Wilmington, Delaware (OTS No. 15646) |) | Date: May 30, 2006 |
| |) | |

ORDER TO CEASE AND DESIST

WHEREAS, **INA TRUST, fsb**, Wilmington, Delaware (the "Savings Association", OTS No. 15646) has executed a Stipulation and Consent to the Issuance of an Order to Cease and Desist ("Stipulation"); and

WHEREAS, the Savings Association, by its execution of the Stipulation, has consented and agreed to the issuance of this Order to Cease and Desist ("Order") pursuant to 12 U.S.C. § 1818(b);¹ and

WHEREAS, the Director of the Office of Thrift Supervision ("OTS") has delegated to the Regional Directors of the OTS the authority to issue consent orders on behalf of the OTS pursuant to provisions of Section 8 of Federal Deposit Insurance Act, 12 U.S.C. § 1818.

NOW, THEREFORE, IT IS ORDERED THAT:

1. Compliance With Laws and Regulations.

The Savings Association and its directors, officers, employees, and agents shall cease and desist from any action (alone or with another or others) for or toward causing, bringing about, participating in, counseling or the aiding and abetting of any violation of:

- (i) The Currency and Foreign Transactions Reporting Act, as amended by the USA Patriot Act and other laws (the "Bank Secrecy Act" or "BSA"), 31 U.S.C. §§ 5311 *et seq.*, and the regulations issued thereunder by the U.S. Department of the Treasury, 31 C.F.R. §§ 103.11 *et seq.*, and the related BSA regulations issued by the OTS, 12 C.F.R. § 563.177 (collectively with the aforementioned laws and regulations, the "BSA Laws and Regulations"), including but not limited to 31 C.F.R. §§ 103.22 and 103.29 and 12 C.F.R. § 563.177 ;
- (ii) 12 C.F.R. § 550.140(a) (brokerage placement practices);
- (iii) 12 C.F.R. § 550.210 (initial investment review requirements);
- (iv) 12 C.F.R. §§ 550.260(b) and 9.18(b) (collective investment fund requirements);

¹ All references to the United States Code ("U.S.C.") are as amended, unless otherwise indicated.

(v) 12 C.F.R. § 552.6-1(b) (requiring a minimum number of members of Board of Directors); and

(vi) 12 C.F.R. § 562.1(b) (filing of accurately prepared TFRs required).

2. Effective Anti-Money Laundering/BSA Compliance Program Required.

(a) The Savings Association is under a continuing obligation to implement, update, and monitor its BSA Compliance Program, as required by 12 C.F.R. § 563.177. The Savings Association's BSA Compliance Program must be reasonably designed to effectively ensure the Savings Association's compliance with the requirements of the BSA Laws and Regulations and the BSA-related terms of this Order, and its day-to-day implementation must be managed by a qualified BSA Officer. Any and all amendments to the BSA Compliance Program (including the various programs, plans and policies required by Sections 3 and 4 of this Order) must be approved by the Savings Association's board of directors ("Board") and be reflected in the minutes of the meeting at which such approval occurs.

(b) By July 14, 2006 (or such later date as may be permitted in writing by the OTS), the Savings Association and its Board of Directors shall take all appropriate actions so as to cause the BSA Compliance Program and implementation thereof to conform to the OTS's BSA-related corrective action comments in the Report of Examination for the examination started January 3, 2006 (the "Report of Examination"), including, but not limited to, the comments regarding incorporation of the SMAART elements. The BSA Compliance Program must:

- (i) Provide for a system of *internal controls* to ensure compliance with the BSA Laws and Regulations, including policies and procedures to detect and monitor all transactions to ensure that they are not being conducted for illegitimate purposes and that there is full compliance with all applicable laws and regulations;
- (ii) Provide for *independent testing*, no less than annually, of compliance with all applicable BSA Laws and Regulations and all applicable regulations requiring the reporting of suspicious transactions, and ensure that compliance audits are performed frequently, are fully documented, and are conducted with the appropriate segregation of duties;
- (iii) Ensure that the Savings Association's designated BSA Officer is actively *managing, coordinating and monitoring* the Savings Association's day-to-day compliance with the BSA Laws and Regulations and the Savings Association's BSA Compliance Program. The Savings Association's designated BSA officer shall have day-to-day responsibility for all BSA compliance and related matters, including, without limitation: (A) the filing of Currency Transaction Reports where required, (B) the identification and timely, accurate and complete reporting to law enforcement and supervisory authorities of unusual or suspicious activity or known or suspected criminal activity perpetrated against or involving the Savings Association, and (C) monitoring the Savings Association's

compliance and ensuring that full and complete corrective action is taken with respect to previously identified violations and deficiencies; and

- (iv) Provide, no less than annually, meaningful BSA-related *training* by qualified consultants or other qualified personnel for all appropriate Savings Association personnel.

(c) The Savings Association's Board shall monitor and update the BSA Compliance Program on an ongoing basis as necessary to adjust to: (i) changes in the Savings Association's operations that may impact on its compliance with the BSA and regulations thereunder and (ii) changes to the BSA Laws and Regulations (as well as related forms).

(d) The Savings Association's Board and its senior management shall take all actions that are necessary and appropriate to ensure that the BSA Officer has sufficient authority, competency, ongoing training, time, staff (which may include outsourced staff and/or dual employees) and resources to perform his/her responsibilities on a day-to-day basis.

3. BSA Training.

(a) The Savings Association is under a continuing obligation to implement and, through monitoring and other appropriate actions, to ensure adherence to a comprehensive written training program ("BSA Training Program") for all appropriate operational and supervisory personnel. The BSA Training Program must be reasonably designed to educate Savings Association personnel about their responsibilities for implementing the Savings Association's BSA Compliance Program for the purpose of facilitating the Savings Association's compliance with the requirements of: (i) the BSA Laws and Regulations, (ii) the regulations of the Office of Foreign Assets Control ("OFAC" and the "OFAC Regulations"), and (iii) the regulations concerning suspicious activity reporting, codified at 12 C.F.R. § 563.180(d) and 31 C.F.R. § 103.18.

(b) The comprehensive BSA Training Program should include strategies for mandatory attendance, the frequency of training, procedures and timing for updating training programs and materials, and the method for delivering training. It also must provide for the Savings Association to maintain documentation that, at a minimum, does the following: (i) identifies each officer or employee (by name, title, and department) for whom training is to be provided, (ii) identifies/describes the nature of the training provided to each such officer or employee, as well as the person/entity that provided the training, and (iii) sets out the dates that such training actually was provided to each such officer or employee. Nothing in this Order precludes the

Savings Association from utilizing the services of one or more appropriate qualified service providers in connection with its implementation of the BSA Training Program.

4. Plan for OFAC Compliance.

(a) The Savings Association shall continue to implement its procedures that have been designed to prevent the Savings Association from being used by its trust account customers or others to engage in funds transfers or other prohibited activities with (i) the countries identified in OFAC's Lists of Sanctioned Countries, and/or (ii) the persons and entities identified in OFAC's List of Specially Designated Nationals.

(b) By July 14, 2006 (or such later date permitted in writing by the Regional Director), the Savings Association shall develop, adopt and commence implementation of a written plan ("OFAC Compliance Plan") that is designed to ensure that: (i) the Savings Association complies with the OFAC Regulations, 31 C.F.R. Part 500 (as well as any rules and guidelines issued or administered by OFAC), and (ii) the Savings Association does not violate 18 U.S.C. § 2339B (prohibiting material support or resources to designated foreign terrorist organizations). The OFAC Compliance Plan should be coordinated with the BSA Compliance Program. The OFAC Compliance Plan must be not be objectionable to the OTS, and at a minimum, the OFAC Compliance Plan shall include procedures to ensure that customer transactions are processed in accordance with OFAC requirements (as specified in regulations and other applicable guidance) and in accordance with a regularly updated list of entities and individuals whose transactions or assets are required to be blocked, frozen or monitored. Pursuant to the OFAC Compliance Plan the Savings Association shall establish and implement procedures: (i) to provide enough information to key staff members in all relevant operations to enable them to recognize and stop/interdict suspect transactions for further review before they are processed; and (ii) to provide a documentary audit trail demonstrating the Savings Association's efforts to avoid violations of 18 U.S.C. § 2339B and the OFAC regulations.

5. Compliance Program Management, Staffing and Resources.

(a) *General Requirements.* The Savings Association, at all times, shall have and implement an effective Compliance Management Program (*i.e.*, program for implementing and adhering to applicable "compliance laws and regulations" of the type identified in the most recent Report of Examination), which (i) shall be customized to address the Savings

Association's fiduciary activities and other processes/needs of the Savings Association, and (ii) shall be managed and implemented by a qualified Compliance Officer.

(b) *Compliance Officer.*

(i) The Compliance Officer shall be responsible for overseeing and managing the Savings Association's implementation of its Compliance Management Program. At the election of the Savings Association's Board, the person selected to serve as the Compliance Officer also may serve as the Savings Association's designated BSA Officer, provided that such person has the appropriate background, training, and experience to competently serve in such capacity.

(ii) The Savings Association's Board shall ensure that the Compliance Officer has sufficient authority, competency, ongoing training, time, staff (which may include outsourced staff and/or dual employees) and resources to perform his/her compliance management responsibilities on a day-to-day basis.

(c) *Compliance Program Enhancement.*

(i) By October 2, 2006 (or such later date as may be permitted in writing by the Regional Director), the Savings Association's Board shall adopt, and the Savings Association shall commence implementation of, an appropriate, enhanced written Compliance Management Program, a sub-part of which shall be the BSA Compliance Program required by Section 1 of this Order. Such enhanced Compliance Management Program must be acceptable to the OTS and, *inter alia*, must: (A) set out the Compliance Officer's duties, responsibilities, training requirements, verification practices and reporting mechanisms, and (B) include a comprehensive, annual account administrative review process that, *inter alia*, shall address the concerns set out in the Report of Examination (in the *Compliance* Section).

(ii) *SMAART Components.* In addition, the Compliance Management Program, at a minimum, must incorporate the six SMAART components (summarized below and described further in the OTS's written guidebook entitled "Compliance: A Self-Assessment Guide"):

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| Systems | The embodiment of task-specific procedures and internal controls that ensure that transactions are conducted and recorded in compliance with legal obligations and customer-service goals. |
| Monitoring | The process of supervising the day-to-day or week-to-week functioning of the Savings Association's compliance systems to assure real-time execution in accordance with program standards. |
| Assessment | The periodic review of system records and operations to identify transactional violations and program deficiencies. |

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| Accountability | The arrangement of responsibility, authority and reporting relationships that provides direction to staff for implementing institution compliance policy and appraises senior management and the directors about compliance program performance. |
| Response | The process of addressing consumer complaints, remedying regulatory violations, amending procedures and controls, correcting internal oversight deficiencies, and implementing policy and system revisions or updates. |
| Training | The communication to appropriate Savings Association personnel of compliance policies, procedures, directives, regulatory requirements, product information and service goals. Also addressed by this component is the commitment and manner in which the Savings Association develops and maintains staff expertise. |

6. Trust Operations Enhancements.

(a) The Savings Association, in exercising its fiduciary powers, is under a continuing obligation to fulfill all of its statutory, regulatory, and other legal responsibilities relative thereto, including (but not limited to) responsibilities concerning trust administration, recordkeeping, trust account review, and investment of trust assets. By July 14, 2006 (or such later date as may be permitted by the OTS in writing), the Savings Association shall submit to the OTS a written plan that must be reasonably designed to facilitate the Savings Association's compliance with the foregoing continuing obligation until the Savings Association has completed its proposed voluntary dissolution. At a minimum, such written plan shall describe with reasonable specificity how, pending such proposed discontinuation of operations, the Savings Association will provide for: (i) adequate oversight of the trust functions and fiduciary obligations, and (ii) ongoing operations with respect to existing trust accounts with appropriate staffing, expertise, and legal review.

(b) While this Order is outstanding and effective, the Savings Association shall not accept any new trust accounts or any other new business until it has hired a qualified person to serve as the Senior Trust Officer with responsibility for day-do-day oversight and management of the trust operations of the Savings Association. If the Savings Association proposes to hire or assign a person to serve as its Senior Trust Officer, then the Savings Association must provide the OTS with prior written notice (a "Subpart H Notice") about the person the Savings Association proposes to have serve as its Senior Trust Officer, which position shall be treated as that of a "senior executive officer" for purposes of 12 C.F.R. §§ 563.550 – 563.590 and Section 12 of this Order. In the event the Savings Association withdraws a Subpart H Notice or the OTS notifies the Savings Association of its disapproval of a submitted Subpart H Notice for any

senior executive officer or director position, then within 30 calendars of such event (or such later time as the OTS may permit in writing), the Savings Association shall submit a new Subpart H Notice in substitution for such withdrawn or disapproved notice.

(c) The Savings Association shall continue to take appropriate actions designed to satisfy the OTS' concerns about the lack of a written service agreement (or contract) with the administrative-services service provider identified in the *Operations, Internal Controls, Information Technology, and Auditing* section of the Report of Examination. Unless the two common trust funds pertaining to such Report of Examination comments have been liquidated by September 30, 2006, then, on September 30, 2006 (or such other date as the OTS may permit in writing), the Savings Association shall file with the OTS, for its review, comment, and proposed approval, a written plan for satisfying the aforementioned OTS concerns identified in the *Operations, Internal Controls, Information Technology, and Auditing* section of the Report of Examination.

(d) In the event the Savings Association determines to withdraw its pending application for a voluntary dissolution (which has been filed pursuant to 12 C.F.R. § 546.4), then within thirty (30) days of the date of the date of withdrawal, the Savings Association (by action of its Board) shall, in view of comments in the Report of Examination, revise its Business Plan to address the Savings Association's staffing needs, back-office interfacing challenges, communication processes, and compliance oversight needs. The amended Business Plan must be acceptable to the OTS, and the Savings Association shall make appropriate revisions to such amended Business Plan in response to comments thereon, if any, provided by the OTS. The Business Plan must contain realistic three-year *pro forma* financial statements.

(e) By June 15, 2006 (or such later date as the OTS may permit in writing), the Savings Association shall engage a qualified, independent law firm to prepare and issue, by July 14, 2006, a written legal opinion addressing whether the Savings Association's common trust fund expenses are in compliance with 12 C.F.R. § 9.18(b)(9)(ii). The Savings Association shall submit a copy of such opinion to the OTS (c/o OTS Field Manager Tara French) by July 31, 2006 (or such later date as the OTS may permit in writing).

(f) By October 2, 2006 (or such later date as the OTS may permit in writing), the Savings Association shall revise its trust investment policy, broker placement policy, and proxy voting policy to address and satisfy the OTS's concerns set out in the *Asset Management* section of the

Report of Examination. The Savings Association shall commence implementation of such revised policies by no later than October 31, 2006 (or such later date as the OTS may permit in writing).

(g) By October 2, 2006 (or such later date as the OTS may permit in writing), the Savings Association shall develop, and shall commence implementation of, a comprehensive, written, annual, account investment review process that addresses the concerns cited in the *Asset Management* section of the Report of Examination. In any event, the Savings Association is under an immediate and continuing obligation to perform account investment reviews within sixty (60) calendar days of account funding in full conformity to the requirements of 12 C.F.R. § 550.210.

(h) By October 2, 2006 (or such later date as the OTS may permit in writing), the Savings Association shall develop, and shall commence implementation of a formal methodology (described in writing) for assessing a fiduciary client's risk profile, and such methodology shall use an analytical approach to establish investment objectives.

7. Internal Control and Risk Management System.

(a) By October 2, 2006 (or such later date as the OTS may permit in writing), the Savings Association's Board shall adopt and the Savings Association shall commence implementation of, enhanced written policies and procedures on internal controls, risk management, and information systems ("Risk Management Program") that: (1) conform to section II.A. of Appendix A to the Safety and Soundness Standards at 12 C.F.R. Part 570; (2) are designed to cause the Savings Association to comply with 12 C.F.R. § 563.161; (3) are established following consideration of the guidance at paragraph 10 of Appendix A to 12 C.F.R. Part 363, and (4) are acceptable to the OTS. At a minimum, such policies and procedures must take into account the scope and risk of the Savings Association's activities and provide for:

- (i) An organizational structure that establishes clear lines of authority and responsibility for monitoring adherence to established policies;
- (ii) Effective risk management;
- (iii) Timely and accurate financial, operational and regulatory reports;
- (iv) Adequate procedures to safeguard and manage assets; and
- (v) Compliance with applicable laws and regulations.

(b) Without limitation on the foregoing requirements in subparagraph (a), the revised Risk Management Program shall provide for, and include appropriate procedures to ensure, a

comprehensive review of the Savings Association's risks that were identified in the *Management* section of the Report of Examination.

8. Internal Audit Enhancements.

(a) Audit of Fiduciary Activities. By August 31, 2006 (or such later date as may be permitted in writing by the OTS), the Savings Association's Board shall adopt, and the Savings Association shall implement, enhanced written policies and procedures for its internal audit function concerning fiduciary activities. Such enhanced written policies and procedures must be acceptable to the OTS and must conform to 12 C.F.R. §§ 550.440 - 550.480 (Audit Requirements for Savings Associations with Fiduciary Powers).

(b) Other Internal Audit Enhancements. The Savings Association and its Board of Directors shall take all actions that are necessary and appropriate to enhance the Savings Association's overall internal audit function so that such internal audit function conforms to the requirements and guidelines at section II.B. of Appendix A to the Safety and Soundness Standards at 12 C.F.R. Part 570. At a minimum, such enhanced internal audit function, which by October 31, 2006 must be described by Board-adopted written policies and procedures, must satisfy the following requirements:

- (i) The internal audit function shall be under the supervision of an Audit Committee of the Board, which committee must have no fewer than three members and must consist solely of directors who are not also officers or employees of the Savings Association;
- (ii) The policies and procedures must assign responsibility for the day-to-day management/oversight of the internal audit function to a designated and qualified individual (the "Internal Audit Manager"), who shall have a direct reporting relationship to the Board and the Audit Committee; various audit-related functions, under the Internal Audit Manager's supervision, may be conducted by internal audit staff, dual employees, or retained external auditors;
- (iii) The Internal Audit Manager and all persons participating in audit functions must have substantial background, training, and experience in effectively conducting audits of trust operations and of savings associations, and, on no less than an annual basis, the Audit Committee shall review the qualifications of the Internal Audit Manager and of those engaged in audit activities, which review shall be reflected in the minutes of the meeting of the Audit Committee;
- (iv) On an annual basis, the Audit Committee shall establish in writing, and assure the completion of, an internal audit program conforming to industry best practices that, among other things, addresses all of the Savings Association's operations and departments and sets out a schedule of assignments. The internal audit program shall be designed to determine:

- (A) Whether the Savings Association is in compliance with applicable statutes, regulations, and internal Savings Association policies;
 - (B) Whether the internal controls system is working properly;
 - (C) Whether all significant deficiencies noted in internal and/or external audit reports have been or are being corrected by management;
 - (D) The soundness and adequacy of information systems and of accounting, operating, and administrative controls;
 - (E) The effectiveness of internal policies and procedures; and
 - (F) The extent to which fiduciary assets and the Savings Association's assets are protected against loss.
- (v) On no less than an annual basis, the Internal Audit Manager shall prepare and submit to the Audit Committee a written report of findings from the internal audit function, and the Audit Committee must (A) review and evaluate each such report, and (B) report thereon to the full Board; and
 - (vi) The Audit Committee (or the full Board) shall: (1) direct Savings Association management to take appropriate corrective action to address deficiencies identified by the internal audit function, and (2) monitor Savings Association management's progress in taking such required corrective action.

9. Independent Audit of Annual Financial Statements; Accounting Enhancement.

(a) The Savings Association shall continue to engage an independent public accountant to audit and report on its annual financial statements in accordance with generally accepted accounting principles. The scope of the audit engagement: (i) shall be sufficient to permit such accountant to determine and report whether the financial statements are presented fairly and in accordance with generally accepted accounting principles, and, (ii) commencing with the engagement for services concerning the 2006 financial statements, also shall provide for the additional reporting required by 12 C.F.R. § 363.3(b). The Savings Association may only engage independent public accountants who satisfy the "general qualifications", "independence", and "peer review" guidelines set out in paragraphs 13, 14, and 15 of Appendix A to 12 C.F.R. Part 363.

(b) The Savings Association annually shall prepare, as of the end of its most recent fiscal year, a management report signed by its chief executive officer and chief accounting or chief financial officer that satisfies the requirements of 12 C.F.R. § 363.2(b), as supplemented by the guidelines and interpretations in Appendix A to 12 C.F.R. Part 363.

(c) Annual Reporting.

- (i) By May 31, 2006 (or such later date as the OTS may permit in writing), the Savings Association shall file with the OTS two copies of each of its annual report containing

the audited annual financial statements, as of the end of fiscal year 2005, and the independent public accountant's report thereon.

- (ii) Within ninety (90) calendar days after the end of its fiscal year (starting with fiscal year 2006), the Savings Association shall file with the OTS two copies of each of the reports specified by 12 C.F.R. § 363.4(a) (including, but not limited to, an annual report containing audited annual financial statements and the independent public accountant's report thereon).

(d) The Savings Association shall file with the OTS a copy of any management letter, qualification, or other report issued by its independent public accountant with respect to the Savings Association within 15 days after receipt.

(e) By Friday, June 30, 2006 (or such later date as may be permitted in writing), the Savings Association's Board of Directors, following consultation with appropriate association staff and with representatives of affiliates contracted to provide services, either: (i) shall appoint a Savings Association officer (who may be a "dual employee") to serve as the Savings Association's chief accounting officer/controller, or (ii) shall develop and adopt a written proposed plan, which must be acceptable to the OTS, for enhancing the staffing, performance, and oversight of the Savings Association's accounting functions (the "Accounting Plan"). By Friday, July 7, 2006, the Savings Association shall file with the OTS either (i) a written notice of the appointment of the chief accounting officer/controller, or (ii) its proposed Accounting Plan for the OTS' review, comment, and possible approval. Promptly following its receipt of OTS' written approval of the proposed Accounting Plan, if any, the Savings Association's Board of Directors shall adopt resolutions adopting such plan, and the Savings Association shall commence implementation of such plan.

(f) With respect to the filings required by this Section 9, the Savings Association shall submit the required documents to the OTS in the manner specified by Section 16 of this Order.

10. Savings Association Board.

By June 30, 2006 (or such later date as may be permitted in writing by the OTS), the Savings Association shall submit to the OTS a written plan that must be reasonably designed to cause the Savings Association to achieve full compliance, by August 18, 2006 (or such later date as may be permitted in writing by the OTS) with the Board-composition/committee-composition/Board oversight requirements of: (i) 12 C.F.R. § 552.6-1; (ii) 12 C.F.R. Part 550 (including but not

limited to §§ 550.150, 550.460, and 550.470); (iii) the Savings Association's Charter and Bylaws; (iv) OTS Order No. 99-63, condition item #9; and (v) OTS guidance in its Thrift Activities Handbook (§ 310) and Trust and Asset Management Handbook (§200). The Savings Association may include the Board Composition Plan as a component of, or supplement to, its Application for Voluntary Dissolution. Immediately upon its receipt from the OTS of a written notice of non-objection concerning its Board Composition Plan, the Savings Association and its Board of Directors shall implement such plan.

11. Board Compliance Committee.

(a) By June 30, 2006 (or such later date as the OTS may permit in writing), the Board shall appoint a committee (the "Regulatory Compliance Committee") comprised of three or more directors, the majority of whom shall be Independent of Management,² to monitor and coordinate the Savings Association's compliance with the provisions of this Order. Until such Regulatory Compliance Committee has been established and constituted, the full Board shall serve as the Regulatory Compliance Committee and perform the duties of such committee.

(b) Within 30 days after the end of each calendar quarter, starting with the quarter ending September 30, 2006, the Regulatory Compliance Committee shall submit a written progress report to the Board detailing the actions taken to comply with each provision of this Order (and each of the Matters Requiring Board Attention in the Report of Examination) and the results of those actions.

(c) Within 45 days after the end of each calendar quarter, starting with the quarter ending September 30, 2006, the Board shall submit to the OTS: (i) a copy of the Regulatory Compliance Committee's quarterly progress report required by the foregoing subparagraph, with any additional comments made by the Board, to the OTS, and (ii) a written certification that each director has reviewed the report.

12. Board and Management Changes.

The Savings Association shall be and is subject to the requirements and limitations set out in Subpart H of Part 563 of the OTS's regulations (12 C.F.R. §§ 563.550 - .590). Without

² As used in this Order, the phrase "Independent of Management" means that the person: (i) is not an officer, employee or consultant of the Savings Association, (ii) is not, either by blood or marriage, related to any existing Savings Association director, officer or their attorneys or consultants, (iii) does not currently have a business or professional relationship with any existing Savings Association director, officer or their attorneys or consultants and (iv) to the extent not inconsistent with the foregoing, meets the criteria set forth at 12 C.F.R. Part 363 and Appendix A thereof.

limitation on such requirements and limitations, this means, among other things, that, except as otherwise permitted by 12 C.F.R. § 563.590, (i) the Savings Association must notify the OTS at least 30 days before adding or replacing any member of its Board, employing any person as a senior executive officer, or changing the responsibilities of any senior executive officer so that the person would assume a different senior executive officer position, and (ii) the proposed director or senior executive officer may not begin service except as permitted by 12 C.F.R. § 563.585 and 12 U.S.C. § 1831i.

13. Severance and Indemnification Payments and Agreements to Make Such Payments.

The restrictions at 12 C.F.R. Part 359 are applicable to the Savings Association. Such restrictions concern the making of agreements (including employment agreements) with severance provisions, “golden parachute payments”, and “prohibited indemnification payments”. Without limitation on the generality of the foregoing, this means, *inter alia*, that the Savings Association shall not make or agree to make any "golden parachute payment", as that term is defined in 12 U.S.C. § 1828(k) and in 12 C.F.R. Part 359, except as may be permitted by the aforesaid statutory provision and regulations. See 12 C.F.R. §§ 359.2 and 359.4.

14. Compensation and Benefit Arrangements.

The Savings Association shall not enter into, renew, extend or revise any arrangement related to compensation or benefits with any director or senior executive officer of the Savings Association unless the Savings Association first -- (i) provides a minimum of 30 days advance notice of the proposed transaction and (ii) receives a written notice of non-objection from the OTS. This Section implements OTS’ policies about compensation arrangements of troubled institutions as set out in OTS Thrift Activities Handbook § 310 (p. 310.11) and OTS Regulatory Bulletin 27b.

15. Contracts Outside of the Ordinary Course of Business.

The Savings Association shall not enter into any third-party contracts outside of the normal course of business without the prior written non-objection of the OTS. To seek such non-objection the Savings Association shall provide 30 days advance written notice to the OTS of any such proposed contract. At a minimum, such notice shall set forth the Savings Association’s reasons for seeking the contract and shall transmit a copy of the proposed contract. See Thrift Activities Handbook § 310. The OTS reserves the right, *inter alia*, to shorten the 30-day notice period where, in the exercise of its discretion, the OTS has determined that good cause has been shown therefor.

16. Submissions to OTS.

(a) Various provisions of this Order require the Savings Association to make submissions to OTS for its approval, non-objection or notice of acceptability. All such submissions shall be in written form, following appropriate due diligence, inquiry and satisfaction of the Savings Association's internal approval processes. Each such submission shall: (i) summarize the Savings Association's inquiry and due diligence efforts, (ii) identify the internal approval process (*e.g.*, Board or Board Committee approval) that has been satisfied, and (iii) otherwise comport with any applicable regulatory requirement governing such submissions.

(b) Except as otherwise specifically provided in this Order, when the Savings Association is required by this Order to submit documents to the OTS, it shall submit them as follows:

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| <u>The original to:</u> James G. Price, Assistant Director Office of Thrift Supervision 1 South Wacker Drive, Suite 2000 Chicago, Illinois 60606 | <u>A copy to:</u> Tara French, Field Manager Office of Thrift Supervision Harborside Financial Center Plaza Five, Suite 1600 Jersey City, NJ 07311 |
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(b) With respect to any plan, policy or procedure that is timely prepared with reasonable diligence by the Savings Association, but nevertheless requires modification to accommodate input by OTS occurring after the due date, no violation will be found to exist for so long as the Savings Association: (i) makes diligent and good faith efforts to incorporate such modifications and (ii) complies with subsequent OTS direction concerning the due dates for implementing such modifications. The only plans, policies or procedures, contemplated by this Order, that require OTS' approval/non-objection *prior* to commencement of implementation are: (i) the written plan required by Section 6(a) (concerning administrative services provider), (ii) the Accounting Plan contemplated by Section 9(e), and (iii) the written plan required by Section 10 (concerning the Board). The Savings Association shall commence implementation of all other required plans, policies, and/or procedures by the deadlines specified in this Order, and the absence of prior OTS review/approval thereof, is not a basis for delaying implementation of such plans, policies, and/or procedures.

(c) Except with the prior written non-objection of the Regional Director (or his designee) during the term of this Order, the Savings Association shall not rescind any plans, policies, and/or procedures that are required by this Order. Also, with respect to (i) the plans filed pursuant to Sections 6(a), 9(e), and 10 of this Order and (ii) the revised Business Plan required

by Section 6(c), the Savings Association shall not make any material changes to such plans after they have been approved or deemed to be not objectionable by OTS, except as the OTS may otherwise permit (by written notice) following its receipt of one or more written requests by the Savings Association.

17. Definitions.

All technical words or terms used in this Order for which meanings are not specified or otherwise provided by the provisions of this Order shall, insofar as applicable, have meanings as defined in Chapter V of Title 12 of the Code of Federal Regulations, the Home Owners' Loan Act ("HOLA"), the Federal Deposit Insurance Act ("FDIA"), OTS Memoranda or other published OTS guidance. Any such technical words or terms used in this Order and undefined in said Code of Federal Regulations, the HOLA, the FDIA, or OTS Memoranda/guidance shall have meanings that are in accordance with the best custom and usage in the savings and loan and trust services industries.

18. Successor Statutes, Regulations, Guidance, Amendments.

Reference in this Order to provisions of statutes, regulations, OTS Memoranda, and other published regulatory guidance shall be deemed to include references to all amendments to such provisions as have been made as of the Effective Date and references to successor provisions as they become applicable.

19. No Violations Authorized; OTS Not Restricted.

Nothing in this Order or the Stipulation shall be construed as: (a) allowing the Savings Association to violate any law, rule, regulation, or policy statement to which it is subject, or (b) restricting or estopping the OTS from taking any action(s) that it believes are appropriate in fulfilling the responsibilities placed upon it by law including, without limitation, any type of supervisory, enforcement or other action that OTS determines to be appropriate, arising out of matters described in the most recent Report of Examination, or based on other matters.

20. Time Limits; Effect of Headings; Separability Clause; Stipulation Incorporated.

(a) Time limitations for compliance with the terms of this Order run from the Effective Date, unless otherwise noted.

(b) The section and paragraph headings herein are for convenience only and shall not affect the construction hereof.

(c) In case any provision in this Order is ruled to be invalid, illegal or unenforceable by the decision of any court of competent jurisdiction, the validity, legality and enforceability of the remaining provisions hereof shall not in any way be affected or impaired thereby, unless the Regional Director in his/her sole discretion determines otherwise.

(d) The Stipulation is made a part hereof and is incorporated herein by this reference.

21. Effective Date; Duration.

This Order is and shall become effective on the date it is issued, *i.e.*, the Effective Date as shown on the first page hereof. This Order may not be modified or suspended except by a written notice of such action that has been signed by the OTS (acting through its Director, Regional Director or other authorized representative). This Order shall remain in effect until it is terminated, which shall occur either: (i) as provided by a written notice of such termination signed by the OTS (acting through its Director, Regional Director, or other authorized representative), or (ii) automatically at 11:59 pm on the date that the Savings Association's corporate existence is dissolved pursuant to applicable law and regulation (*e.g.*, at the completion of the voluntary dissolution contemplated by the Savings Association's application for voluntary dissolution filed pursuant to 12 C.F.R. § 546.4).

IT IS SO ORDERED.

OFFICE OF THRIFT SUPERVISION

s/Robert C. Albanese

By: _____
Robert C. Albanese
Regional Director, Northeast Region

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